IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8210 OF 2006

Prabhakar Anandrao Prabhu ...Petitioner

V/s.

Thane Municipal Corporation ...Respondent

Shri.D.K. Ghaisas for Petitioner.
Shri.R.S. Apte for Respondent.

CORAM : V.M. KANADE, J.
DATED : 8th MARCH, 2007.

P.C. :-

1. Heard learned counsel for the Petitioner and the learned counsel for the Respondent.

2. The Petitioner is challenging the order passed by the Lower Appellate Court who has vacated impugned order which was passed in his favour by the Trial Court. Demolition notice was issued by the Corporation stating therein that the building in which petitioner was having his "Hotel Vasant" was in a dilapidated condition. The Petitioner filed suit. The Trial Court passed an order restraining corporation from evicting and demolishing the suit premises i.e. ground floor property "Hotel Vasant". In this case two conflicting reports have been submitted by Architecture. One which states that building is in a

dilapidated condition whereas other report says that upper floors can be demolished and it is not necessary to demolish the ground floor structure.

3. In my view, it is not proper to consider the aspect regarding condition of building, particularly when first notice was issued in the year 2004. Since order of injunction has continued to operate from 2005, ends of justice would be met if direction is given to the Trial Court to decide the suit expeditiously within six months. In the meantime order passed by the Trial Court shall continue to operate pending hearing and final disposal of suit.

4. Petition is allowed in the above terms. All contentions of the parties are kept open. Statement of learned counsel for the petitioner is that his client has no objection if upper floors are demolished and that petitioner shall co-operate with the corporation if this work is undertaken by them. Statement is accepted.

V.M. KANADE, J.